

Comparing an ABLE Account with a Third Party SNT

Issues	ABLE Account	Third Party Special Needs Trust
Who can use?	Only persons disabled before age 26	Any person with a disability
Who can fund?	Anyone, including person with a disability	Anyone, including person with a disability IF(s)he has capacity (recent legislation in December 2016 allows this)
How many can person have?	One	Unlimited
Who can control?	Person with a disability and likely their legal guardian, conservator, or agent	Anyone except the person with a disability and their spouse

<p>Who inherits on death of person with disability?</p>	<p>Medi-Cal must be repaid for amounts paid by Medi-Cal after the creation of the ABLE account; then can go to heirs</p>	<p>Person with a disability's heirs or whomever is named in document</p>
<p>How much can be funded in a year?</p>	<p>\$14,000 (or annual gift exemption)</p>	<p>Unlimited</p>
<p>Is funding gift-tax free?</p>	<p>Yes</p>	<p>No, but no gift tax will be paid until the donor has given more than \$5 million (indexed to inflation)</p>
<p>Is there a cap on how much can be in account?</p>	<p>Yes, currently \$100,000 limitation for SSI recipients and up to State 529-plan limitations (\$475,000 in CA)</p>	<p>No</p>

<p>How is income taxed?</p>	<p>No income tax</p>	<p>Taxed as a non-grantor trust at highest marginal tax rate</p>
<p>What type of distributions can be made?</p>	<p>Distributions can be made for “qualified disability expenses” such as housing transportation, assistive technology and more</p>	<p>No limitation, except for certain disbursements, such as for housing, may reduce or eliminate SSI or Medi-Cal eligibility</p>